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3
4 UNITED STATES BANKRUPTCY COURT FOR THE
5 WESTERN DISTRICT OF WASHINGTON

6 In re

7 HWC BURBS BURGER, LLC,

8 Debtor.

Case No. 23-11919

9 **DECLARATION OF MATTHEW J.P.**
10 **JOHNSON IN SUPPORT OF THE U.S.**
11 **TRUSTEE MOTION TO CONVERT OR**
12 **DISMISS CHAPTER 11 CASE**

13 I, Matthew J.P. Johnson, declare under penalty of perjury, as follows:

14 1. I am more than 18 years of age and am competent to testify to the contents herein.

15 2. I am a Trial Attorney in the Office of the United States Trustee, United States
16 Department of Justice, Region 18, Seattle, Washington.

17 3. I am familiar with the regular practice of the U.S. Trustee in making and keeping
18 records, and it is the regular practice of the U.S. Trustee to keep records related to bankruptcy
19 cases, including recording section 341 meetings, and keeping records of the same. These records
20 are kept in the ordinary course of business, are made and recorded by a person with personal
21 knowledge of the same and are kept as contemporaneous records.

22 4. I have reviewed the recording of the section 341 meeting of creditors in this case
23 to refresh my memory, and I have personally reviewed the monthly operating reports, bank
24 statements, emails, and other documents and records in this case.

25 5. I conducted the section 341 meeting of creditors on November 14, 2023. At that
26 Meeting, I asked Debtor's principal, Joshua Henderson, whether any money was owed to any of
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DECLARATION OF MATTHEW J.P. JOHNSON -
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Office of the United States Trustee
United States Courthouse
700 Stewart Street, Suite 5103
Seattle, WA 98101-1271
206-553-2000, 206-553-2566 (fax)

1 the Debtor's vendor's when the case was filed. Mr. Henderson told me that the business
2 certainly owed money to vendors at that time. At the conclusion of the meeting, I stated that we
3 needed more information regarding the vendors and payables on the date of filing. On the same
4 date, November 14, 2023, I sent a follow-up email to Thomas Neeleman requesting that Debtor
5 provide a list of vendors that were owed money on the date of filing, and to the extent those
6 claims had been paid after filing, how much was paid, when was it paid, and when was the
7 inventory was supplied to Debtor.
8

9 6. I sent follow-up email to Thomas and Jennifer Neeleman on November 28, 2023,
10 which included the email from November 14, and requested a status update.
11

12 7. On January 5, 2024, I sent another email to Thomas and Jennifer Neeleman again
13 requesting an update regarding the vendor issue.

14 8. Included in the January 5, 2024, email to Thomas and Jennifer Neeleman was a
15 request to provide information regarding the wire transfers from Debtor's bank account. As
16 evidenced by the October and November MOR, Debtor transferred tens of thousands of dollars
17 via wire transfer in those months.
18

19 9. I reviewed the October and November bank statements attached to the monthly
20 operating reports. The October bank statement appear to have all pre-petition transactions
21 redacted. In my review of the November bank statement, I calculated the running balance of the
22 account. The account often had a negative balance, and the returned checks coincided with the
23 negative account balances.
24

25 10. As of the date of this Declaration, I have not received the requested information
26 regarding the post-petition vendor payments or the wire transfers.
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11. On January 26, 2024, I also sent an email to Thomas and Jennifer Neeleman requesting an unredacted copy of the October bank statement.

12. The foregoing statements are true and correct to the best of my knowledge.

DATED Tuesday, January 30, 2024, by,

/s/ Matthew J.P. Johnson
Matthew J.P. Johnson, WSBA #40476
Attorney for the United States Trustee